In re WILLIAMS ET AL., Application No. 09/894,199
Amendment C

REMARKS

The final Office action dated March 22, 2006, and the references cited have been fully considered. In response, please enter the enclosed Request for Continued Examination (RCE) and the following amendments, and consider the following remarks. Reconsideration and/or further prosecution of the application is respectfully requested.

First, Applicants have taken this opportunity to cleanup the definition of computer-readable medium in the specification and in independent claims 34 and 42 to ensure that it is defined consistent with common usage and the MPEP. No new matter is added.

Next, Applicants appreciate the notification that claims 10-14 and 42-46 are allowed. In regards to allowed claims 10-14 and 42-46, Applicants have taken this opportunity to amend allowed independent claim 42 to clean up claim language. Applicants believe that allowed claims 42-46 remain allowed for at least the same reasons they stand allowed. Applicants have also added new dependent claims 55 and 57 (with support provided at least by previously pending claim 1) and new dependent claim 56 (with support provided at least by the XON time period recited on page 10 of the originally filed specification), which are believed to be allowable for at least the same reasons that allowed independent claims 10 and 42 (from which they depend) stand allowed.

Next, Applicants appreciate the notification that claims 2-4, 8, 19-21, 25, 27-29, 33, 35-37, and 41 contain allowable subject matter. Applicants have taken this opportunity to rewrite into new claim sets the allowed subject matter of some of these dependent claims. More specifically, new claims 47-49 respectively correspond to claims 2-4, new claims 50-52 respectively correspond to claims 19-21, new claim 53 corresponds to claim 8, and new claim 54 corresponds to claim 25. Note, Applicants have taken this opportunity to clean-up the language of these claims, while leaving the allowable subject matter. Applicants believe that new claims 47-54 are allowable for at least the reasons the Office action indicates that claims 2-4, 19-21, 8 and 25 would be allowed if re-written in independent format.

In regards to the remaining pending independent claims of 1, 18, 26, and 34, Applicants have elected to change the language to specify a "quantitative time duration" rather than "a timing difference...wherein the timing difference is a measured time quantity," and to add new dependent claims (claims 58-61) to specify that the duration is from the start flow control signal until the stop flow control signal (with support provided at least by the rate controller 203 determines a relative time duration on page 7 of the originally filed application, and the XON time period recited on page 10 of the originally filed specification). Applicants have also amended some of the dependent claims to use consistent claim language (e.g., now "quantitative time duration") and taken this opportunity to cleanup the claim language of some of the claims to be consistent current claim drafting preferences. No new matter is added herein.

Therefore, each of the independent claims of 1, 18, 26 and 34 recite the use of the "quantitative time duration" for determining the initial rate which clearly differentiates itself from the mere occurrence of flow control events.

In rejecting these claims, the Office action relies on the occurrence of one event occurring before the another event. However, the prior art of record neither teaches nor suggests the recited limitations of determining the initial rate based at least in part on the quantitative time duration between occurrence of these recited two events. Rather these references merely rely on what state they are currently in or the transition between states - either the XON state or the XOFF state. In fact, the prior art of record neither teaches nor suggests a mechanism for determining a quantitative time duration. As the Office provides no teaching for measuring a time duration or determination of a "quantitative time duration," if the Office maintains its rejection, Applicants make a "demand for evidence" to show a teaching that the prior art of record actually determines the "quantitative time duration". Applicants do not even see where the prior art includes a mechanism to determine a quantitative time duration between the occurrence of two flow control events. The mere fact that there is a quantitative time duration between two flow control events is not enough for a proper rejection, as the claims recite

limitations of the determination of this quantitative time duration, and the use of the determined quantitative time duration in determining the initial rate.

As the prior art of record neither teaches nor suggests all of the limitations of independent claims 1, 18, 26, and 34, independent claim 1 and its dependent claims of 2-8 and 58, independent claim 18 and its dependent claims of 19-25 and 59, independent claim 26 and its dependent claims of 27-33 and 60, and independent claim 34 and dependent claims 35-41 and 61 are all believe to be allowable for at least these reasons.

In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over all prior art of record.

If the Office complies with MPEP § 706 and 37 CFR 1.104(c)(2), then the Office cited the best prior art references available. As the prior art of record neither teaches nor suggests all the claim limitations of the pending claims, then all pending claims are believed to be allowable over the best prior art available, and Applicant requests all rejections be withdrawn, the claims be allowed and the application pass to issuance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney, as Applicant is open to discussing, considering, and resolving issues.

Applicants believe that no extension of time is required. However, if one should be determined as necessary, Applicants hereby request/petition for such extension of time and the Commissioner is hereby authorized to charge Deposit Account No. 501430 for any fee that may be due in connection with such a request for an extension of time.

Respectfully submitted,
The Law Office of Kirk D. Williams

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By _____ 6-22-2006

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